

Laura K. Granier (SBN 7357)  
lgranier@lionelsawyer.com  
Courtney Miller O'Mara (SBN 10683)  
comara@lionelsawyer.com  
LIONEL SAWYER & COLLINS  
1100 Bank of America Plaza  
50 West Liberty Street  
Reno, Nevada 89501  
(775) 788-8666 (Telephone)  
(775) 788-8682 (Fax)

Attorneys for Creditor  
Utilities, Inc. of Central Nevada

**Electronically Filed November 9, 2012**

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEVADA**

In re:

CALDERA P & G

Debtor.

Case No. 12-22484-btb  
Chapter 11

**DECLARATION OF LAURA K.  
GRANIER IN SUPPORT OF  
UTILITIES, INC. OF CENTRAL  
NEVADA'S RESPONSE IN SUPPORT  
OF DEBTOR'S MOTION TO APPOINT  
A TRUSTEE**

Hearing date: November 13, 2012  
Hearing time: 11:00 AM

LAURA K. GRANIER, being first duly sworn under oath, deposes and says:

1. I am a shareholder at Lionel Sawyer & Collins and am one of the attorneys responsible for representing Utilities, Inc. of Central Nevada ("UICN") in the above-captioned matter. I make this declaration in support of UICN's Response In Support Of Debtor's Motion To Appoint A Trustee. The matters set forth in this declaration are based on my own personal knowledge. If called upon to testify, I am competent to testify as to the matters set forth herein.

2. Pursuant to an agreement entitled "Tri-Partite Agreement for Utility Services" (the "TPA" or "Tri-Partite Agreement") between UICN and the owners of the Willow Creek Golf Course, UICN is, among other things, entitled to store treated effluent in nine existing

1 storage ponds on the golf course and to access the course for storage and distribution of treated  
2 effluent. This has been litigated and affirmed by a decision and declaration order entered by the  
3 Nevada District Court.

4 3. In or around approximately December 2008, Ashland Capital, LLC ("Ashland"),  
5 an affiliate of the Debtor's, took title to the Willow Creek Golf Course through a trustee's sale.  
6 On or about February 12, 2009, a second trustee's sale resulted in transfer of title of the golf  
7 course property to Jorei Enterprises, LLC. After Jorei became the owner, Ashland continued to  
8 manage the property pursuant to an option to purchase with Jorei. In October of 2011 Jorei sold  
9 the course to Caldera P & G. James "Jim" Scott is the principal and person in control of both  
10 Ashland and Caldera and has testified to this fact in the state court litigation referenced above.  
11

12 4. Since approximately December of 2009 through the present, Jim Scott and his  
13 entities have been in control of the Willow Creek Golf Course operations.  
14

15 5. Since December 2009, the Nevada Division of Environmental Protection  
16 ("NDEP") has been trying to get necessary remediation of the storage ponds at the Willow Creek  
17 Golf Course ponds completed.

18 6. Ashland and Scott's failure to maintain the ponds resulted in a preliminary  
19 injunction being issued by the Nevada District Court in September 2009 and also in a subsequent  
20 Finding of Alleged Violation being issued by NDEP.  
21

22 7. In March of 2012 a bench trial was held in Nye County which resulted in a  
23 declaratory and money judgment in favor of UICN. Also in March of 2012, the state court  
24 began holding contempt proceedings regarding Ashland's, Caldera's and Jim Scott's disobedience  
25 of the Court's 2009 injunction requiring that the golf course ponds be remediated. Despite a  
26 contempt order issuing as a result of the March 2012 contempt hearing, Jim Scott, Ashland and  
27 Caldera failed to remediate the ponds as ordered. Three more contempt hearings were held on  
28

1 this topic and at the most recent contempt hearing on November 7, 2012, Justice Rose took no  
2 action against Caldera P & G because of this pending bankruptcy but ordered Mr. Scott as an  
3 individual and managing member of Ashland Capital, LLC, jailed for 21 days for his contempt  
4 of court.

5  
6 8. Not only is Mr. Scott himself jailed, but Mr. Scott recently testified that the  
7 maintenance staff at the golf course are concluding their employment with the debtor at the end  
8 of this week.

9  
10 9. A report issued by an examiner in the Sunray Petroleum bankruptcy matter (Case  
11 No. 11-19196-LBR) reveals ample cause for concern as to leaving Mr. Scott in charge of the  
12 business affairs of any debtor before this court, including this Debtor. For example, Mr. Scott  
13 caused debtor Sunray Petroleum to pay him as a "consultant" without first obtaining the Court's  
14 approval. UICN is also aware that Mr. Scott does not cause his companies to respect corporate  
15 formalities and that he apparently failed to submit claims that may exceed \$1 million on behalf  
16 of this debtor in the bankruptcy of its subsidiary, Sunray Petroleum.

17  
18 10. As set forth in the November 7, 2012 order entered by Justice Rose, Mr. Scott  
19 uses companies called All Capital Funding, LLC and J.W. Scott Co's, Inc. as his alter egos. Mr.  
20 Scott frequently uses his business entities to pay his personal expenses. For example, J.W. Scott  
21 Co's, LLC is an account he uses to pay his and his wife's personal expenses because creditors are  
22 trying to collect against their actual personal account. Additionally, he recently testified to  
23 having caused Earthco, another of his companies, to enter in to a lease to rent his residence and  
24 Earthco pays his personal mortgage on that property. Previous to Earthco paying the mortgage  
25 on that property it appears that this Debtor or its affiliate was leasing the property.

26 ///

27 ///

11. Attached as Exhibit 1 is a true and correct copy from Lionel Sawyer & Collins' file of the Tri-Partite Agreement for Utility Services entered into January 24, 2000, by and between Preferred Equities Corporation, CNUC, and Covington Nevada Corporation, PGC Land Co., LLC, and Executive Golf Land Company, predecessors in interest with respect to the TPA to UICN and Ashland and Caldera P&G.

12. Attached as Exhibit 2 is a true and correct copy from Lionel Sawyer & Collins' file of the Option to Purchase dated May 27, 2009 between Jorei Enterprises, LLC and Ashland Capital, LLC.

13. Attached as Exhibit 3 is a true and correct copy from Lionel Sawyer & Collins' file of the Preliminary Injunction filed on September 11, 2009 in Case No. CV 28780 in the Fifth Judicial District.

14. Attached as Exhibit 4 is a true and correct copy from Lionel Sawyer & Collins' file of an April 26, 2010 Letter from the State of Nevada, Division of Environmental Protection, to Robert Mosier of Jorei Enterprises, LLC.

15. Attached as Exhibit 5 is a true and correct copy from Lionel Sawyer & Collins' file of the Judgment entered on May 31, 2012 in Case Nos. CV 27399/CV 28780 in the Fifth Judicial District.

16. Attached as Exhibit 6 is a true and correct copy from Lionel Sawyer & Collins' file of the Order Holding James Scott (a/k/a Jim Scott), Ashland Capital, LLC, and Caldera P & G in Contempt of Court; and Judgment entered on May 16, 2012 in Case Nos. CV 27399/CV 28780 in the Fifth Judicial District.

17. Attached as Exhibit 7 is a true and correct copy from Lionel Sawyer & Collins' file of the Order No. 2 Holding James Scott (a/k/a Jim Scott), Ashland Capital, LLC, and Caldera P & G in Contempt of Court; and Judgment entered on August 8, 2012 in Case Nos. CV

27399/CV 28780 in the Fifth Judicial District.

18. Attached as Exhibit 8 is a true and correct copy from Lionel Sawyer & Collins' file of the Order No. 3 Holding James Scott (a/k/a Jim Scott), Ashland Capital, LLC, and Caldera P & G in Contempt of Court; and Judgment entered on August 8, 2012 in Case Nos. CV 27399/CV 28780 in the Fifth Judicial District.

19. Attached as Exhibit 9 is a true and correct copy from Lionel Sawyer & Collins' file of the Order No. 4 Holding James Scott (a/k/a Jim Scott), Ashland Capital, LLC, and Caldera P & G in Contempt of Court; and Judgment entered on November 7, 2012 in Case Nos. CV 27399/CV 28780 in the Fifth Judicial District.

20. Attached as Exhibit 10 is a true and correct copy from Lionel Sawyer & Collins' file of the relevant pages of the transcript of the Judgment Debtor Examination of James W. Scott taken on November 5, 2012.

21. Attached as Exhibit 11 is a true and correct copy from Lionel Sawyer & Collins' file of the Examiner's Report filed in the Sunray Petroleum, Inc. bankruptcy case, Case No. 11-19196-LBR, Docket No. 76.

22. Attached as Exhibit 12 is a true and correct copy from Lionel Sawyer & Collins' file of the Order Granting Motion for Order to Show Cause Regarding Deficient Discovery Repsonses and Order to Show Cause Why J.W. Scott Co. and All Capital Funding Should Not Be Bound to the Judgments in Favor of Plaintiff, filed on November 7, 2012 in Case Nos. CV 27399/CV 28780 in the Fifth Judicial District.

23. Attached as Exhibit 13 is a true and correct copy from Lionel Sawyer & Collins' file of the relevant pages of the transcript of the Judgment Debtor Examination of James W.

///

///

1 Scott taken on October 4, 2012.

2 I declare under penalty of perjury under the laws of the State of Nevada that the  
3 foregoing is true and correct and was executed this 9th day of November, 2012.  
4

5

6

7

/s/ Laura K. Granier  
LAURA K. GRANIER

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28